

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

XIAO CHEN LIN,)	
ID # 08242-043,)	
Movant,)	
)	No. 3:19-CV-263-M-BH
vs.)	No. 3:16-CR-270-M(1)
)	
UNITED STATES OF AMERICA,)	
Respondent.)	Referred to U.S. Magistrate Judge¹

**RECOMMENDATION REGARDING REQUEST TO PROCEED
IN FORMA PAUPERIS ON APPEAL**

Before the Court is the movant's *Application to Proceed In Forma Pauperis* on appeal, received on June 1, 2021 (doc. 56), and accompanying certificate of inmate trust account.

- (X) The request for leave to proceed *in forma pauperis* on appeal should be DENIED because the Court should certify under Fed. R. App. P. 24(a)(3) and 28 U.S.C. § 1915(a)(3) that the appeal is not taken in good faith, and that it presents no legal points of arguable merit and is therefore frivolous for the reasons set forth in the findings, conclusions, and recommendations filed in this case on March 4, 2021, April 2, 2021, and April 28, 2021 (docs. 39, 45, 50). The request is also denied because the movant has not established that he is a pauper. A review of the movant's certificate of inmate trust account shows that he has deposits totaling \$3,540 over the last six months, an average balance of \$2,106.61 for the 30 days preceding June 9, 2021, a current account balance of \$1,332.02, and an average daily balance of \$1,501.16 over the last six months, all of which reflect sufficient funds to pay the applicable filing fees on appeal.

If the Court denies the request to proceed *in forma pauperis* on appeal, the petitioner may challenge the denial by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within thirty days after service of the notice required by Fed. R. App. P. 24(a)(4). See Fed. R. App. P. 24(a)(5).

¹ By Amended Miscellaneous Order No. 6 (adopted by Special order No. 2-59 on May 5, 2005), requests to proceed *in forma pauperis* on appeal are automatically referred.

SIGNED this 18th day of June, 2021.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE